

Appl. No. 09/927,125
Amdt. dated Apr. 10, 2006
In Reply to Office Action of Dec. 8, 2005

REMARKS

Claims 1-22 are pending in the present application. Claims 1, 2, 4-6, 10, 11, 13 and 16-22 stand rejected. Claims 3, 7-9, 12, 14 and 15 stand objected to.

Allowable Subject Matter

Applicants gratefully acknowledge the indication by the Examiner that claims 3, 7-9, 12, 14 and 15 contain patent subject matter. In view of the remarks herein, it is believed that claims 3, 7-9, 12, 14 and 15 are in condition for allowance.

Anticipation Based on Wright

Claims 1, 10, 19, 20 and 22 stand rejected under 35 U.S.C. § 102(c) as being anticipated by United States Patent No. 6,078,959 ("Wright"). Applicants respectfully traverse the rejection as set forth below.

Claims 19 and 20

Claim 19 recites, in part, "responding to the first polling signal during a first allocated transmission slot by uploading a first amount of data; receiving a second polling signal from the access point, wherein the second polling signal corresponds to the first amount of data uploaded; uploading a second amount of data to the access point responsive to the second polling signal from the access point".

Wright does not describe that a second polling signal corresponds to **an amount** of data uploaded.

Instead, Wright merely describes "transmitting a second message from the server system to the respective subscriber upon queuing the subscriber-originated connection request; ... transmitting a third message from the server system to the respective subscriber upon allocating a connection resource to the queued subscriber-originated connection request". Wright at col. 16, lines 47-55. Nowhere does Wright contemplate a second polling signal that corresponds to **an amount** of data uploaded as set forth in claim 19.

Since Wright does not teach each and every element as set forth in claim 19, an anticipation rejection based on Wright cannot be maintained.

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It is therefore respectfully requested that the anticipation rejection under 35 U.S.C. § 102(e) based on Wright be withdrawn with respect to claim 19 and its rejected dependent claim (i.e., claim 20).

Claims 1 and 10

Claim 1 recites, in part, "recording upload activity by the first wireless device in response to the polling". Claim 10 recites, in part, "record upload activity by the first wireless device in response to the polling". The Office Action alleges that "they may simply be queued at the respective server system, awaiting a connection resource allocation, refer to col. 1 lines 45-47". Office Action at pages 3 and 4 (underlining in the original).

Wright states "[t]his, in turn, provides an advantage to network-originated connection requests, as they may simply be queued at the respective server system, awaiting a connection resource allocation". Wright at col. 1, lines 44-47.

Applicants respectfully note that the "server system" in Wright, as cited in the Office Action, does not record "upload activity by the first wireless device". As the name suggests, "network-originated connection requests" are merely pre-connection requests to set up connections. Thus, a connection has not even been established yet. If a connection has not even been established yet, then there is no "upload activity" to record.

Claim 1 also recites, in part, "allocating a first of the plurality of unallocated transmission slots to the first wireless device based upon the recorded upload activity". Claim 10 also recites, in part, "allocate ... unallocated transmission slots ... based upon the recorded upload activity". Since Wright does not describe "recording upload activity by the first wireless" as set forth in claim 1 or "record upload activity by the first wireless device" as set forth in claim 10, Wright does not describe "allocating ... unallocated transmission slots ... based upon the recorded upload activity" as set forth in claim 1 or "allocate ... unallocated transmission slots ... based upon the recorded upload activity as set forth in claim 10".

Applicants respectfully submit that an anticipation rejection of claims 1 and 10 based on the cited text of Wright cannot be maintained.

It is therefore respectfully requested that the anticipation rejection under 35 U.S.C. § 102(c) based on Wright be withdrawn with respect to claims 1 and 10.

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Claims 21 and 22

Claim 21 has been amended and now recites, in part, "responding to the first polling signal during a first allocated transmission slot by uploading a first set of data and an indicator that indicates that a communication link should be lowered in priority". Wright does not describe at these elements as set forth in claim 21.

Claim 22 recites "wherein the first polling signal and the second polling signal are associated with a single polling cycle". Applicants have carefully reviewed the text cited by the Office Action with respect to claim 22. It is respectfully noted that Wright is silent as to a "single polling cycle".

It is therefore respectfully requested that the anticipation rejection under 35 U.S.C. § 102(e) based on Wright be withdrawn with respect to claim 21 and its rejected dependent claim (i.e., claim 22).

Anticipation Rejection based on Quayle

Claims 16-18 stand rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,865,169 ("Quayle"). Applicants respectfully traverse the rejection as set forth below.

Claim 16 has been amended such that an access point includes a prioritizer that changes a priority of a wireless device based on a measure of upload activity from the wireless device.

Applicants respectfully submit that Quayle does not describe at least these elements as set forth in claim 16.

It is therefore respectfully requested that the anticipation rejection under 35 U.S.C. § 102(e) be withdrawn with respect to claim 16 and its rejected dependent claims (i.e., claims 17 and 18).

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Obviousness Rejection based on Wright and Hodzic

Claims 2 and 11 stand rejected under 35 U.S.C. § 103(a) as being obvious over Wright in view of United States Patent No. 6,097,707 ("Hodzic"). Applicants respectfully traverse the rejection as set forth below.

Applicants respectfully submit that the above-described teaching deficiencies of Wright are not made up by the teachings of Hodzic. It is therefore respectfully submitted that a *prima facie* case of obviousness has not been presented.

It is therefore respectfully requested that the obviousness rejection under 35 U.S.C. § 103(a) based on Wright in view of Hodzic be withdrawn with respect to claims 2 and 11.

Obviousness Rejection based on Wright and Minnick

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being obvious over Wright in view of United States Patent No. 6,370,381 ("Minnick"). Applicants respectfully traverse the rejection as set forth below.

Applicants respectfully submit that the above-described teaching deficiencies of Wright are not made up by the teachings of Minnick. It is therefore respectfully submitted that a *prima facie* case of obviousness has not been presented.

It is therefore respectfully requested that the obviousness rejection under 35 U.S.C. § 103(a) based on Wright in view of Minnick be withdrawn with respect to claim 4.

Obviousness Rejection based on Wright and Jones

Claims 5 and 21 stand rejected under 35 U.S.C. § 103(a) as being obvious over Wright in view of United States Patent No. 6,490,256 ("Jones"). Applicants respectfully traverse the rejection as set forth below.

Applicants respectfully submit that the above-described teaching deficiencies of Wright are not made up by the teachings of Jones. It is therefore respectfully submitted that a *prima facie* case of obviousness has not been presented.

It is therefore respectfully requested that the obviousness rejection under 35 U.S.C. § 103(a) based on Wright in view of Jones be withdrawn with respect to claims 5 and 21.

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Obviousness Rejection based on Quayle and Matsuno

Claims 6 and 13 stand rejected under 35 U.S.C. § 103(a) as being obvious over Quayle in view of United States Patent No. 6,865,169 ("Matsuno"). Applicants respectfully traverse the rejection as set forth below.

Applicants respectfully submit that the above-described teaching deficiencies of Quayle are not made up by the teachings of Matsuno. It is therefore respectfully submitted that a *prima facie* case of obviousness has not been presented.

It is therefore respectfully requested that the obviousness rejection under 35 U.S.C. § 103(a) based on Quayle in view of Matsuno be withdrawn with respect to claims 6 and 13.


Conclusion

In view of at least the foregoing, it is respectfully submitted that the pending claims 1-22 are in condition for allowance. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the below-listed telephone number.

The Commissioner is hereby authorized to charge additional fees or credit overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

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Respectfully submitted,


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